

**OCT 08 2004**

**NOT FOR PUBLICATION**

**UNITED STATES COURT OF APPEALS**

**CATHY A. CATTERSON, CLERK  
U.S. COURT OF APPEALS**

**FOR THE NINTH CIRCUIT**

MITCHELL FIELDS,

Petitioner - Appellant,

v.

JACKIE CRAWFORD,

Respondent - Appellee.

No. 03-16954

D.C. No.

CV-00-00189-DWH/RAM

MEMORANDUM\*

Appeal from the United States District Court  
for the District of Nevada  
David W. Hagen, District Judge, Presiding

Argued and Submitted September 13, 2004  
San Francisco, California

Before: OAKES,\*\* KLEINFELD, and CALLAHAN, Circuit Judges.

Fields's challenge to the entry of his guilty plea fails because the state  
determination was not contrary to nor an unreasonable application of Boykin v.

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\* This disposition is not appropriate for publication and may not be cited to or  
by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

\*\* The Honorable James L. Oakes, Senior Circuit Judge of the United States  
Court of Appeals for the Second Circuit, sitting by designation.

Alabama,<sup>1</sup> as 28 U.S.C. § 2254(d) would require for a writ. He got the advice Boykin requires.

Fields's challenge to his conviction based on counsel's putative ineffectiveness also fails because the state court determination was not contrary to nor an unreasonable application of Strickland v. Washington,<sup>2</sup> as 28 U.S.C. § 2254(d) would require for a writ. The defense theory, that counsel failed to investigate, would have been of no help to Fields. It is not a defense to the crimes charged that the victims were crack addicts, were acquaintances of Fields, had promised to exchange sex for crack, or on other occasions participated in consensual sex with him. Nor does Fields make a colorable showing that he was incompetent to enter a plea and that his lawyer should have known of his incompetence. All he showed was that he was taking prescribed medication to improve his mental state. He did not show that he was so impaired that he was incompetent to enter a plea. Nor did he show that his lawyer knew of any alleged incompetence.

**AFFIRMED**

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<sup>1</sup> Boykin v. Alabama, 395 U.S. 238 (1969).

<sup>2</sup> Strickland v. Washington, 466 U.S. 668 (1984).